

STADLER®

Engineering at its best

General purchasing conditions Stadler Anlagenbau GmbH

1.0 Contract basis – Scope

1.1 The following conditions form the basis for the purchase order. Conflicting or divergent terms and conditions of the supplier are not accepted, unless the purchaser has expressly consented to them in writing.

The purchasing conditions of the purchaser shall be valid and applicable even if delivery of the supplier is accepted by the purchaser without reservation and in cognizance of divergent terms and conditions of the supplier.

1.2 The content of the order letter and, if applicable, of the enclosed order specifications, possible records of negotiations signed by the purchaser and the supplier, as well as other possible enclosed contract basis signed by purchaser and supplier have priority over these general purchasing conditions.

1.3 Contractual rights and obligations may be transferred only with written consent of the purchaser. Deliveries and services may be provided by subcontractors only if the purchaser has been notified in writing.

2.0 Order and placing of order

2.1 Orders are only valid if placed in writing. Any orders placed verbally or by telephone become effective only after written confirmation of the purchaser.

2.2 The supplier shall review the order and notify the purchaser in writing of possible errors and inconsistencies.

2.3 The purchaser can cancel the order if the supplier does not accept the order within 2 weeks after receipt by returning the enclosed order confirmation. If the order is not confirmed in writing, the start of the works or respectively the completed delivery is considered as unconditional acceptance of the order under the terms of the purchaser.

2.4 If as an exception the prices are not determined explicitly when placing the order, the contract will be concluded only with the written confirmation of the prices by the purchaser.

2.5 Changes or additions of the order and the contract as well as side-agreements require the written confirmation of the purchaser in order to become effective.

3.0 Prices

3.1 With conclusion of the contract the supplier confirms to have informed himself about all conditions and factors which influence the price formation. The agreed prices are fixed prices for the whole period of contract execution.

3.2 In the absence of a divergent agreement in writing, the price includes the costs of delivery as well as of packaging.

4.0 Delivery time – place of delivery/performance – risk assumption

4.1 The delivery dates or times given in the order are binding. The supplier is obligated to promptly notify the purchaser in writing about any possible delays in delivery as soon as he can foresee these, specifying the reasons as well as the expected duration of these delays. The supplier has to minimize the delays as far as possible by suitable measures. Additional costs for acceleration measures have to be covered by the supplier.

4.2 In the absence of a divergent agreement in writing, all deliveries and services including packaging have to be provided "free at destination" or respectively "free at the place of use (place of fulfillment)", delivered duty paid, if applicable.

4.3 Shipment has to be done to the dispatch address given in the order indicating the full order data of the purchaser on packaging, bill of lading, packet addresses, dispatch note, invoices and adhesive labels. The purchaser has to be informed promptly and in writing about the shipment, indicating the order number. Shipments with wrong dispatch address arriving to the purchaser will be stored by the purchaser until correction only at the supplier's risk and cost.

4.4 The date of receipt at the reception center specified by the purchaser is decisive for deliveries to be on time; for deliveries with assembly or installation or for services the acceptance is decisive. At this point the risk of delivery or service is transferred to the purchaser.

4.5 The acceptance of a delayed delivery or service does not entail a waiver of possible claims for compensation or other claims.

4.6 The supplier provides his services at his own risk and with own authority to issue instructions to the staff that is in charge of the service. Services, which have to be performed on factory premises of the purchaser, shall not constrain the operation of the purchaser and of third parties more than it is inevitable. The instructions of the authorized representatives of the purchaser must be followed. This shall apply also for safety-related instructions of the purchaser.

5.0 Contract penalties

5.1 In case of a missed deadline for which the supplier is responsible, the purchaser is authorized to charge a contract penalty amounting to 0.3% of the net contract value per working day, but not exceeding 10% in total. The purchaser is authorized to claim the contract penalty in addition to the performance. The reservation of the contract penalty has to be asserted to the supplier within 10 working days from the acceptance of the delayed delivery or service. Any further claims and rights remain unaffected.

6.0 Force majeure

6.1 In cases of Force majeure the purchaser is authorized to withdraw wholly or partially from the contract or to claim a postponement of the delivery or the service to a later date or period to be determined by the purchaser.

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7.0 Performance obligations – Environmental protection

7.1 The supplier provides all deliveries and services according to the state of the art including the assured ergonomic findings and following strictly all relevant legal regulations, provisions and guidelines of authorities, staff associations and professional associations or other significant and applicable provisions, guidelines etc. in their relevant latest version. It is up to the supplier to acquire the necessary knowledge for this purpose. If the supplier has concerns concerning the type of execution required by the purchaser, he has to communicate this to the purchaser promptly in writing.

7.2 The supplier shall use for his deliveries and services as well as for subcontracted supplies or additional services of third parties products, processes and packaging which are environmentally friendly, within the limits of the economic and technical possibilities, as well as he shall consider environmental protection during all activities until the fulfillment of the contract.

7.3 The purchaser reserves the right to return the packaging at the expense of the supplier, if no other agreement has been made.

8.0 Documentation

8.1 At latest at the time of delivery the supplier has to provide to the purchaser all documentation which is necessary for the designated use of his deliveries and services, as e.g. installation and operation manuals, drawings, plans, instruction manuals, technical documentation and calculations etc., if the contractual partners did not make another agreement in writing. They become property of the purchaser.

8.2 The purchaser retains the ownership of the documentation, samples, models etc. which have been provided to the supplier; such documents must not be made available to third parties without the explicit written approval of the purchaser and are to be used only for production purposes on the basis of the order. After completion of the order these documents have to be returned to the purchaser without request.

9.0 Property rights

9.1 Possible patent and license fees are included in the contract price.

9.2 The supplier guarantees that all deliveries and services are free of property rights of third parties and especially that no patents, licenses or other property rights of third parties will be infringed by using the delivery items.

9.3 The supplier indemnifies the purchaser from all claims of third parties regarding possible infringements of industrial property rights and also pays all costs which arise for the purchaser in this context.

9.4 The limitation period for the claims from paragraph 9 is 10 years, starting with the conclusion of the respective contract.

10.0 Rights of the purchaser in case of material defects and defects of title

10.1 The supplier has to provide his deliveries and services according to the required quality free of material defects and defects of title. He is obliged to remedy without delay all occurring defects or to re-deliver / re-perform free of defects (supplementary performance) until the end of the limitation period for warranty claims. This applies also for deliveries for which the inspection is limited to random sampling. The purchaser can furthermore assert the other statutory rights, especially self-remedy and reimbursement of expenses, withdrawal and/or compensation.

10.2 The statutory limitation periods apply for the rights of the purchaser regarding material defects and defects of title. These limitation periods start with the transfer of risk. If deliveries or services are delayed due to reasons for which the purchaser is responsible, the limitation period starts at latest 6 months after provision of the delivery or acceptance.

10.3 For parts of the delivery, which cannot be in operation during the analysis and/or remedy of the defect, the current limitation period is extended by the duration of interruption. For parts which have been repaired or supplied as replacement the limitation period starts again with completion of the installation.

11.0 Invoicing and payment

11.1 Invoices have to be sent in duplicate, auditable and indicating all order data of the purchaser to the address of the purchaser. Value-added tax must be shown separately. This also applies for agreed deposits. As long as this data is missing, the invoices are not payable. Copies of the invoice have to be marked clearly as duplicates. Invoices of monthly supplies / performances have to be issued at latest until the 3. working day of the following month.

11.2 Payments will be done, unless otherwise agreed, within 14 days with a cash discount deduction of 3% or within 40 days strictly net using methods of payment at the purchaser's option. Cash discount deduction is also valid, if the purchaser offsets or justifiably withholds payments, e.g. due to defects. The payment period starts with the receipt of the invoice, but not before receipt of the goods free of defects, the acceptance of the service and the complete delivery of the owed documentation by the supplier, if applicable, or other contract documents.

11.3 Hourly paid works, if requested by the purchaser, will be paid only against the confirmed report of the working hours applying the cost rate accepted by the purchaser.

12.0 Termination – Withdrawal

12.1 The purchaser is entitled to withdraw at his option partly or wholly from the contract without charge or to cancel the contract with immediate effect, if the supplier stops payments or becomes insolvent. In the case of a withdrawal or a cancellation the supplier shall, if requested by the purchaser, give to the purchaser completely or partly manufactured or purchased parts, if the corresponding consideration of the purchaser has been given, or if the purchaser is willing to give it in return.

13.0 Assignment of claims

13.1 The assignment of claims of the supplier against the purchaser from or related to the order is valid only with the written consent of the purchaser.

14.0 Non-disclosure – data protection

14.1 The contractual partners are obliged to treat all information about non-obvious commercial or technical details of which they obtain knowledge as a result of the business relation as business secrets. Sub-contractors shall be bound accordingly.

14.2 The supplier shall treat the conclusion of the contract confidentially. He is permitted to refer to the business relation with the purchaser in advertising materials only with prior written consent of the purchaser.

14.3 The supplier is obliged to adhere to the provisions of the Federal Data Protection Act. The purchaser will collect, process and use personal data of the supplier only according to the provisions of the Federal Data Protection Act.

15.0 Place of performance – applicable law – place of jurisdiction

15.1 Place of performance for all deliveries and services of the supplier is the dispatch address or place of use indicated by the purchaser.

15.2 The law of the Federal Republic of Germany shall apply exclusively, excluding the UN Convention on Contracts for the International Sale of Goods.

15.3 Contract language is German, unless otherwise agreed.

15.4 Place of jurisdiction is, if the supplier is general merchant, the place where the purchaser has his principal office. But the purchaser has the right to take proceedings against the supplier also at the court at his place of business.

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